

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DUANE RANGE,

Plaintiff,

v.

MICHAEL EAGAN, ET AL.,

Defendants.

Case No. 17-11245

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

U.S. MAGISTRATE JUDGE
DAVID R. GRAND

**ORDER ADOPTING REPORT AND RECOMMENDATION [20] AND GRANTING THE
STATE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [53]**

On April 20, 2017, Plaintiff Duane Range, a Michigan state prisoner, through an attorney, filed a civil rights complaint [Dkt. 1] against two groups of defendants: 1) CPI, Inc., a private company, as well as CPI employees Scott Montgomery, Matthew Buryta, Greg Konopka, and Kyle Foley (“the CPI Defendants”); and 2) Michael Eagan, the Michigan Parole Board, Heidi Washington, the Michigan Department of Corrections, Sara Flesher, and Sherry Underwood (“the State Defendants”). He claims that Defendants violated his First Amendment rights.

The Court referred all pretrial matters to the Magistrate Judge on August 25, 2017 [11]. On January 17, 2018, the Court issued an Order [31] resolving two

Reports and Recommendations (“R&R”) [20, 26] and granting the CPI Defendants’ Motion to Dismiss [9].

Plaintiff was discharged from MDOC custody on February 2, 2018. Plaintiff subsequently filed two amended complaints [34, 38] on February 8, 2018 and April 13, 2018, respectively. Defendants Michael Eagan and Heidi Washington filed a Motion for Summary Judgment [45] on May 31, 2018. On July 24, 2018, the Magistrate Judge issued an R&R [49] advising the Court to grant the motion and dismiss Plaintiff’s claims without prejudice. The Court adopted that R&R on August 22, 2018 [50], which dismissed (without prejudice) Plaintiff’s claims against Michael Eagan and Heidi Washington.

On November 30, 2018, the Michigan Department of Corrections and Michigan Parole Board filed a Motion for Summary Judgment [53]. Plaintiff never responded to the motion, and on December 28, 2019, the Magistrate Judge issued an Order to Show Cause [54] why the Defendant’s Motion for Summary Judgment should not be granted and/or Plaintiff’s action should not be dismissed under FED. R. Civ. P. 41(b). A response was due by January 11, 2019.

On January 16, 2019, having received no answer from Plaintiff, the Magistrate Judge issued a Report and Recommendation [55], advising the Court to dismiss the action against Michigan’s Department of Corrections and Parole Board. The R&R

recommended granting the State Defendants' Motion for Summary Judgment on grounds of both the defendants' eleventh amendment immunity and the plaintiff's failure to comply with the Prison Litigation Reform Act's exhaustion requirement. No objection was filed.

The Court having reviewed the record, the Report and Recommendation [55] is hereby **ADOPTED** and entered as the findings and conclusions of the Court.

IT IS ORDERED that State Defendants' Motion for Summary Judgment [53] is **GRANTED**. The case against Michigan's Department of Corrections and Michigan's Parole Board is **DISMISSED**. As there are no remaining Defendants, the case will be closed.

SO ORDERED.

Dated: February 8, 2019

s/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge